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466 7590 09/02/2009

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EXAMINER

MONSHIPOURI, MARYAM

ART UNIT

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DELIVERY MODE

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PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.



It should be noted that the amendment of 3/10/2008 is not entered because applicant introduced claims 1-25, which have been previously canceled in the amendment of 5/15/2006. As applicant is well aware, it is against Patent Office rules to reintroduce previously canceled claims unless they are renumbered. On 8/28/2009 the examiner called applicant (Mr. Benoit Castel, the attorney of record) and obtained confirmation that claims 1-25 are indeed canceled and the claims currently pending and under consideration are claims 26-45 for which a restriction requirement is included (see below).

Applicant is also reminded that instant claims 26-46 **do not comply with sequence rules**. See for example claim 42, wherein no "SEQ ID NO:" , is associated with the linker sequence. See 37 CFR section 1.821-1.825 for details.

Applicant is required to comply with sequence rules prior to election of an invention such that a proper search and examination of the elected invention will be possible.

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 26-31, 35-45, drawn to dual chain avidin (dcAvd) molecules, circularly permuted avidin monomers, DNA encoding all said products and a method of expressing said DNA.

Group II, claim(s) 26-45, drawn to mutants of said dcAvd, mutants of dcAvd, mutants of said monomers, DNA encoding said mutants and methods of expressing said DNA.

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In addition to inventions listed as Groups I-II above, each invention is additionally and independently directed to the following patentably distinct products of unrelated chemical structure and function:

- (a) wild type avidin
- (b) streptavidin
- (c) poultry avidin
- (d) each of chicken avidin related molecules (AVRs)
- (e) cpAvd5-4 dimers from each of (a)-(c) above,
- (f) cpAvd6-5 dimers from each of (a)-(c) above,
- (g) cpAvd4-3 dimers from each of (a)-(c) above,
- (h) cpAvd5-5/cpAvd6-5 fusions from each of (a)-(c) above,
- (i) cpAvd5-4/cpAvd4-3 fusions from each of (a)-(c) above, and
- (j) cpAvd6-5/Avd4-3 fusions from each of (a)-(c) above.

When electing any of the inventions of Groups I-II above applicant is advised to simultaneously elect an invention from Groups (a)-(j) as well. **This is not a species election.**

The inventions listed as Groups I-II do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the special technical feature of Group I and Group II are wild type avidin and mutated avidin, respectively, which differ in structure and function and therefore share no technical feature.

This application contains claims **directed to numerous species** of the generic invention. These species are deemed to lack unity of invention because they are not so linked as to form a single general inventive concept under PCT Rule 13.1.

The species are as follows:

- (1) The mutated permuted monomer with Y33X substitution only.
- (2) The mutated permuted avidin monomer with Y33X, I117Y only.
- (3) The mutated permuted avidin monomer with Y33X, I117Y, S16 only.
- (4) The mutated permuted avidin monomer with Y33X, I117Y, S16, T35X only.

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(5) The mutated permuted avidin monomer with Y33X, I117Y , S16, T35X, N118X only.

(6) The mutated permuted avidin monomer with I117Y, S16 only.

(7) The mutated permuted avidin monomer with I117Y, S16X, T35X only.

Etc.

For the purposes of brevity all other species in claims 9-10 are not spelled out.

**When electing Group II invention** applicant is required to additionally elect a single species from those listed as 1-7 above, to which the claims shall be restricted if no generic claim is finally held to be allowable. The reply must also identify the claims readable on the elected species, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered non-responsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

The claims are deemed to correspond to the species listed above in the following manner:

Specifically claims 32-34 embrace numerous species of mutants.

**The following claim(s) are generic: 26-45.**

The species listed above do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, the species lack the same or corresponding

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special technical features for the following reasons: each species has a separate structure.

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement may be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To preserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Maryam Monshipouri whose telephone number is (571) 272-0932. The examiner can normally be reached on Tues.-Fri., from 7:00 a.m to 5:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Wang can be reached on (571) 272-0811. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Maryam Monshipouri/  
Primary Examiner, Art Unit 1656

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